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 14

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN JOSE DIVISION

18	_____)	
19	JOEL KRIEGER, Individually and on Behalf)	Case No. 11-CV-00640 LHK
20	of All Others Similarly Situated,)	
21	Plaintiff,)	<u>Class Action</u>
22	vs.)	STIPULATION AND PROPOSED
23	ATHEROS COMMUNICATIONS, INC.,)	ORDER GOVERNING THE
24	DR. WILLY C. SHIH, DR. TERESA H.)	PRODUCTION AND EXCHANGE
25	MENG, DR. CRAIG H. BARRATT,)	OF CONFIDENTIAL AND HIGHLY
26	ANDREW S. RAPPAPORT, DAN A.)	CONFIDENTIAL INFORMATION
27	ARTUSI, CHARLES E. HARRIS,)	
28	MARSHALL L. MOHR, CHRISTINE)	Judge: Hon. Lucy H. Koh
	KING, QUALCOMM INCORPORATED,)	Date Action Filed: February 10, 2011
	and T MERGER SUB, INC.,)	[Re: Docket No. 43]
	Defendants.)	MODIFIED BY THE COURT
	_____)	

1 WHEREAS, the parties in the above-captioned action (the “Parties”) and any appeal
2 therein (the “Litigation”) are engaged in proceedings that may include, among other things,
3 the sharing of confidential or proprietary information;

4 WHEREAS, the Parties and/or their shareholders could be jeopardized or prejudiced
5 by the disclosure of non-public financial data, business strategies, product or operational
6 information or other highly sensitive, confidential, privileged, proprietary or otherwise
7 commercially-sensitive information or documents;

8 WHEREAS, the Parties have been given access to certain information which the
9 Parties believe to be confidential, sensitive, personal, commercial, financial or business
10 information;

11 WHEREAS, good cause exists for entry of this Stipulation and Order Governing the
12 Production and Exchange of Confidential and Highly Confidential Information (the
13 “Stipulation and Order”); and

14 WHEREAS, the entry of this Stipulation and Order will promote the fair and
15 expeditious resolution of this Litigation;

16 IT IS HEREBY STIPULATED AND AGREED, pursuant to Federal Rules of Civil
17 Procedure 26(c) and Civil Local Rule 79-5, by and among the Parties hereto through their
18 undersigned counsel, subject to the approval of the Court, that this Stipulation and Order
19 shall govern the handling of documents, depositions upon oral examination, depositions
20 upon written questions, deposition exhibits, responses to interrogatories, responses to
21 requests for admission, responses to requests for documents, expert reports, any written,
22 recorded, graphic or other electronic matter and any other information produced, filed with
23 or submitted to the Court and/or given or exchanged in this Litigation, by or among any
24 Party or non-Party (“Discovery Material”).

25 1. Any Party or non-Party who provides Discovery Material (a “Producing
26 Party”) may designate any Discovery Material as “Confidential” under the terms of this
27 Stipulation and Order if the Producing Party in good faith reasonably believes that such
28 Discovery Material contains non-public, confidential, proprietary, commercially sensitive

1 or personal information, that requires the protections provided in this Stipulation and Order
 2 (hereinafter “Confidential Discovery Material”). For purposes of this Stipulation and
 3 Order, Discovery Material considered to be Confidential Discovery Material may include,
 4 without limitation, all non-public materials containing: (i) financial or business plans or
 5 projections; (ii) trade secrets and proprietary technical information; (iii) studies or analyses
 6 by internal or outside experts or consultants; (iv) financial or accounting results or data;
 7 (v) customer lists, bids, solicitations and information; (vi) competitive analyses;
 8 (vii) personnel files or data; (viii) product development and planning; (ix) personal
 9 financial, tax or employment information; (x) business, management and marketing plans
 10 and strategies; (xi) costs of goods and services; (xii) pricing of goods and services;
 11 (xiii) acquisition offers and expressions of interest; (xiv) contracts or agreements with
 12 customers, employees, affiliates or partners; (xv) complaints, disputes, litigation, mediation
 13 or arbitration with customers, suppliers, employees, affiliates or partners; (xvi) stockholder
 14 lists, registers and data; and (xvii) any other information a Producing Party believes to be
 15 commercially sensitive or personal information.

16 2. Any Producing Party may designate any Confidential Discovery Material as
 17 “Highly Confidential” under the terms of this Stipulation and Order if such Producing Party
 18 in good faith reasonably believes that disclosure of the Confidential Discovery Material
 19 (other than as expressly permitted pursuant to this Stipulation and Order) would unduly
 20 harm the commercial, financial or business interests of such Producing Party, or would
 21 otherwise create an undue risk of injury to such Producing Party that would not exist in the
 22 absence of such disclosure (“Highly Confidential Discovery Material”). For purposes of
 23 this Stipulation and Order, Highly Confidential Discovery Material may include, but is not
 24 limited to, proposed strategic transactions and other business combinations, negotiations,
 25 inquiries or agreements including, but not limited to, joint ventures, mergers, purchases,
 26 buy-outs, consolidations, transfers of interests and partnerships, non-public information
 27 constituting trade secrets or other current proprietary technical information, current pricing
 28

or cost information or information regarding customer contracts, financial or business plans or projections.

3. The designation of Discovery Material as Confidential Discovery Material or Highly Confidential Discovery Material shall be made in the following manner:

A. In the case of documents or other materials (apart from depositions or other pretrial testimony), by: (i) affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential Discovery Material or Highly Confidential Discovery Material, respectively; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-Rom, Floppy Disk, DVD).

B. In the case of depositions or other pretrial testimony, by: (i) a statement on the record, by counsel, at or before the conclusion of the deposition or testimony; or (ii) written notice, sent by counsel to all Parties within five (5) business days after receiving a copy of the final transcript of the deposition or testimony; provided that only those portions of the transcripts designated as Confidential Discovery Material or Highly Confidential Discovery Material shall be deemed Confidential Discovery Material or Highly Confidential Discovery Material, respectively. In both of the foregoing instances, the designating Party or non-Party shall direct the court reporter that the appropriate confidentiality legend be affixed to the first page and/or all portions of the original and all copies of any transcript containing Confidential Discovery Material and/or Highly Confidential Discovery Material. The Parties may modify this procedure for any particular deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court. Unless otherwise agreed by the Parties, such testimony shall be treated as Highly Confidential Discovery Material until the time for designation has passed.

1 C. In the case of any other Discovery Material, by written notice at the
2 time of production that the Discovery Material constitutes Confidential Discovery Material
3 or Highly Confidential Discovery Material, as appropriate.

4 4. The designation of Discovery Material as Confidential Discovery Material
5 or Highly Confidential Discovery Material shall constitute a representation that such
6 Discovery Material has been reviewed by an attorney representing the Party making the
7 designation, and that there is a good faith basis for such designation.

8 5. Inadvertent failure to designate Discovery Material as Confidential
9 Discovery Material or Highly Confidential Discovery Material shall not constitute a waiver
10 of such claim and may be corrected: (i) by supplemental written notice designating such
11 Discovery Material as Confidential Discovery Material or Highly Confidential Discovery
12 Material as soon as such inadvertent failure to designate is discovered; or (ii) in a manner
13 consistent with Paragraph 3. Upon receiving such supplemental written notice, the non-
14 Producing Party shall thereafter treat the Discovery Material so designated as Confidential
15 Discovery Material or Highly Confidential Discovery Material, accordingly, and such
16 Discovery Material shall be fully subject to this Stipulation and Order from the date of such
17 notification forward. In addition, upon receiving such supplemental written notice, any
18 receiving party that disclosed the Discovery Material prior to its designation as Confidential
19 Discovery Material or Highly Confidential Discovery Material shall make a good faith
20 effort (i) to ensure the return or destruction of such Discovery Material, (ii) to ensure that
21 any documents or other materials derived from such Discovery Material are treated as if the
22 Discovery Material had been designated as Confidential Discovery Material or Highly
23 Confidential Discovery Material when originally produced, (iii) to ensure that such
24 Discovery Material is not further disclosed except in accordance with the terms of this
25 Stipulation and Order, and (iv) to ensure that any such Discovery Material, and any
26 information derived therefrom, is used solely for the purposes described in Paragraph 10 of
27 this Stipulation and Order.

28

1 6. Confidential Discovery Material may be disclosed, summarized, described,
2 characterized or otherwise communicated or made available in whole or in part only to the
3 following persons:

4 A. Outside counsel and inside counsel for the Parties, and the partners,
5 associates, paralegals, secretaries, clerical, regular and temporary employees, and service
6 vendors of such counsel (including outside copying services and outside litigation support
7 services) who are assisting in the preparation and trial of this Litigation;

8 B. The Parties, including the directors, officers, employees (including
9 but not limited to inside counsel), management personnel and/or advisors and partners of
10 the Parties or any subsidiary or affiliate thereof, who are assisting the Parties in this
11 Litigation, or who appear as witnesses or deponents, and any professional employee of any
12 person providing professional advice to any of the corporate Parties;

13 C. Any person indicated on the face of a document or accompanying
14 correspondence to be the author, addressee, or an actual or intended recipient of the
15 document;

16 D. Subject to Paragraph 8 hereof, experts or consultants assisting
17 counsel for the Parties, and the partners, associates, secretaries, clerical, regular and
18 temporary employees, and service vendors of such experts or consultants (including outside
19 copying services and outside litigation support services) who are assisting in the preparation
20 and/or trial of this Litigation;

21 E. Witnesses or deponents and their counsel, only to the extent
22 necessary to conduct or prepare for depositions or testimony in this Litigation;

23 F. The Court, persons employed by the Court, and court reporters
24 transcribing any hearing, trial or deposition in this Litigation or any appeal therefrom; and

25 G. Any other person only upon (i) order of the Court entered upon
26 notice to the Parties or (ii) written agreement of, or statement on the record by, the
27 Producing Party who provided the Discovery Material being disclosed that such Producing
28 Party consents to such disclosure, and provided that such person signs an undertaking in the

form attached as Exhibit A hereto, agreeing in writing to be bound by the terms and conditions of this Stipulation and Order, consenting to the jurisdiction of the Court for the purposes of the enforcement of this Stipulation and Order, and agreeing not to disclose or use any Confidential Discovery Material or Highly Confidential Discovery Material in a manner or for purposes other than those permitted hereunder.

7. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized or otherwise communicated or made available in whole or in part only to the following persons:

A. Outside counsel for the Parties, and the partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying services and outside litigation support services) who are assisting in the preparation and trial of this Litigation;

B. Any person indicated on the face of a document or accompanying correspondence to be the author, addressee, or an actual or intended recipient of the document;

C. Subject to Paragraph 8 hereof, experts or consultants assisting counsel for the Parties, and partners, associates, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting in the preparation and/or trial of this Litigation;

D. Witnesses or deponents and their counsel, during a deposition or in a court proceeding in this Litigation, only to the extent necessary to conduct that deposition or proceeding;

E. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial or deposition in this Litigation or any appeal therefrom; and

F. Any other person only upon (i) order of the Court entered upon notice to the Parties or (ii) written agreement of, or statement on the record by, the Producing Party who provided the Discovery Material being disclosed that such Producing

1 Party consents to such disclosure, and provided that such person signs an undertaking in the
2 form attached as Exhibit A hereto, agreeing in writing to be bound by the terms and
3 conditions of this Stipulation and Order, consenting to the jurisdiction of the Court for the
4 purposes of the enforcement of this Stipulation and Order, and agreeing not to disclose or
5 use any Confidential Discovery Material or Highly Confidential Discovery Material in a
6 manner or for purposes other than those permitted hereunder.

7 8. Notwithstanding the above, Confidential Discovery Material or Highly
8 Confidential Discovery Material may be provided to experts or consultants only to the
9 extent necessary for such expert or consultant to prepare a written opinion, to prepare to
10 testify, or to assist counsel or the Parties, provided that (i) such expert or consultant is using
11 said Discovery Material solely in connection with the prosecution or defense of this
12 Litigation, (ii) such expert or consultant is not currently an employee of, or advising or
13 discussing employment with, or a consultant to, any person known or reasonably believed
14 to be a competitor of any Party or to be a potential transaction counterparty of any Party to
15 this Litigation, and (iii) such expert or consultant has previously executed an undertaking in
16 the form attached hereto as Exhibit A, agreeing in writing to be bound by the terms and
17 conditions of this Stipulation and Order, consenting to the jurisdiction of this Court for
18 purposes of enforcement of the terms of this Stipulation and Order, and agreeing not to
19 disclose or use any Confidential Discovery Material or Highly Confidential Discovery
20 Material for purposes other than those permitted hereunder. Counsel for the Party
21 disclosing Confidential Discovery Material or Highly Confidential Discovery Material to an
22 expert or consultant shall be responsible for obtaining such signed undertaking and
23 retaining the original, executed copy thereof; provided that non-Party witnesses to whom
24 Confidential Discovery Material or Highly Confidential Discovery Material is first
25 disclosed at deposition or trial need not be required to execute an undertaking in order to be
26 bound by the terms hereof.

27 9. When serving subpoenas on non-Parties, a copy of this Stipulation and Order
28 (including Exhibit A) shall be included with the subpoena, and the subpoena shall expressly

incorporate by reference the terms of this Stipulation and Order. Any Party that has already served a subpoena on a non-Party, shall serve a copy of this Stipulation and Order on such non-Party (including Exhibit A).

10. Discovery Material, or information derived therefrom, shall be used solely for purposes of this Litigation and shall not be used or disclosed for any other purpose, including, without limitation, for any business or commercial purpose or for any other litigation or proceeding.

11. Any pleading, brief, memorandum, motion, letter, affidavit, or other document filed with the Court, which discloses, summarizes, describes, characterizes or otherwise communicates Confidential Discovery Material or Highly Confidential Discovery Material (a "Filing Under Seal"), shall be **submitted with a request for sealing** ~~filed under seal~~ in accordance with the provisions of Civil Local Rule 79-5, and any other Orders of this Court;

12. During the pendency of this Litigation, any Party objecting to the designation of any Discovery Material as Confidential Discovery Material or Highly Confidential Discovery Material may, after making a good faith effort to resolve any such objection, **seek judicial intervention pursuant to the undersigned's Standing Order re Civil Discovery Disputes.** ~~move on reasonable notice for an order vacating the designation~~. While such an application is pending, the Discovery Material or testimony in question shall be treated consistently with the manner in which it was designated. The provisions of this Paragraph are not intended to shift the burden of establishing confidentiality.

13. Entering into, agreeing to and/or producing or receiving Confidential Discovery Material or Highly Confidential Discovery Material or otherwise complying with the terms of this Stipulation and Order shall not:

A. Operate as or constitute a waiver of any attorney-client, work product or other privilege;

B. Prejudice in any way the rights of any Party or Producing Party to object to the production of documents or information they consider not subject to discovery, including pursuant to the automatic stay of discovery provided by the Private Securities Litigation Reform Act, or operate as an admission by any Party or Producing Party that the

1 restrictions and procedures set forth herein constitute adequate protection for any particular
2 information;

3 C. Prejudice in any way the rights of any Party or Producing Party to
4 object to the authenticity or admissibility into evidence of any Discovery Material;

5 D. Operate as an admission by any Party or Producing Party that any
6 particular Discovery Material constitutes either Confidential Discovery Material or Highly
7 Confidential Discovery Material;

8 E. Prejudice in any way the rights of any Party or Producing Party to
9 seek a determination by the Court whether any Discovery Material or Confidential
10 Discovery Material or Highly Confidential Discovery Material should be subject to the
11 terms of this Stipulation and Order;

12 F. Prejudice in any way the rights of any Party or Producing Party to
13 petition the Court for a further protective order relating to any purportedly Confidential
14 Discovery Material or Highly Confidential Discovery Material; or

15 G. Prevent any Party or Producing Party from agreeing to alter or waive
16 the provisions or protections provided for herein with respect to any particular Discovery
17 Material.

18 14. This Stipulation and Order has no effect upon, and shall not apply to, a
19 Producing Party's use or disclosure of its own Discovery Material for any purpose.
20 Nothing herein shall: (i) prevent a Producing Party from disclosing its own Discovery
21 Material; or (ii) impose any restrictions on the use or disclosure by a Party of documents,
22 materials or information designated as Confidential Discovery Material or Highly
23 Confidential Discovery Material obtained lawfully by such Party independently of the
24 discovery proceedings in this Litigation and not otherwise subject to confidentiality
25 restrictions.

26 15. If Discovery Material that is subject to a claim of attorney-client privilege,
27 attorney work product or any other applicable privilege, immunity or ground for
28 withholding such document from production is inadvertently produced or disclosed

1 (“Inadvertent Production Material”), such inadvertent production shall in no way prejudice
 2 or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege,
 3 work product or other applicable privilege, immunity or ground for withholding such
 4 document from production.

5 A. A claim of inadvertent production shall constitute a representation by
 6 that Party that the Inadvertent Production Material has been reviewed by an attorney for
 7 such Party and that there is a good faith basis for such claim of inadvertent production.

8 B. If a claim of inadvertent production is made pursuant to this
 9 Stipulation and Order, with respect to Discovery Material then in the custody of another
 10 Party, that Party shall: (i) refrain from any further examination or disclosure of the claimed
 11 Inadvertent Production Material; (ii) if requested, promptly make a good faith effort to
 12 return the claimed Inadvertent Production Material and all copies thereof (including
 13 summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed
 14 Inadvertent Production Material (including summaries and excerpts) and certify in writing
 15 to that fact; and (iii) not use the Inadvertent Production Material for any purpose until
 16 further order of the Court.

17 **Subject to Paragraph 27,**
 18 C. A Party may move the Court for an order compelling production of
 19 [^] **in compliance with Civil Local Rule 79-5 as necessary**
 20 the claimed Inadvertent Production Material. The motion shall be filed ~~under seal~~ and shall
 21 [^] not assert as a ground for entering such an order the fact or circumstance of the inadvertent
 22 production; nor shall such motion include or otherwise disclose, as an attachment or exhibit
 23 or otherwise, the Inadvertent Production Material (or any portion thereof) which is the
 24 subject of such motion. While such a motion is pending, the Discovery Material in
 25 question shall be treated in accordance with Paragraph 16(B) above.

26 D. If a Party, in reviewing Discovery Material it has received from the
 27 other Party or any non-Party, finds anything it believes in good faith may be Inadvertent
 28 Production Material, that Party shall: (i) refrain from any further examination or disclosure
 of the potentially Inadvertent Production Material; (ii) promptly identify the material in
 question to the Producing Party (by document number or other equally precise description);

and (iii) give the Producing Party ten (10) days to respond as to whether the material was, in fact, inadvertently produced. If the Producing Party makes a claim of inadvertent production, the provisions of Paragraph 16(B) above shall apply.

16. In the event additional parties are joined in this Litigation, they shall not have access to Confidential Discovery Material or Highly Confidential Discovery Material until the newly-joined party has executed and, at the request of any Party, filed with the Court its agreement to be fully bound by, this Stipulation and Order.

17. Non-Parties who are Producing Parties shall have the benefit of this Stipulation and Order, and shall be entitled to enforce its terms, if they agree to be bound hereby.

18. The Parties agree to be bound by the terms of this Stipulation and Order pending the entry of this Stipulation and Order by the Court, and any violation of its terms during that time shall be subject to the same sanctions and penalties as if this Stipulation and Order has been entered by the Court.

19. The provisions of this Stipulation and Order shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of this Litigation, including without limitation any appeals therefrom.

20. Within ninety (90) days after receiving notice of the entry of an order, judgment or decree finally disposing of this Litigation, including any appeal therefrom, in which Confidential Discovery Material or Highly Confidential Discovery Material is permitted to be used, and upon the written request of the Producing Party, **Parties and Non-Parties** ~~all persons~~ having received Confidential Discovery Material or Highly Confidential Discovery Material shall either make a good faith effort to return such material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party (at the expense of the Producing Party), or destroy all such Confidential Discovery Material or Highly Confidential Discovery Material and certify to that fact. However, counsel for the Parties shall be entitled to retain court papers, correspondence, pleadings, deposition and trial transcripts, exhibits and attorney work product (which include within them references to

Confidential or Highly Confidential Materials), provided that such counsel (and employees of such counsel) shall not disclose the court papers, deposition and trial transcripts or attorney work product to any person except pursuant to a court order or agreement with the Producing Party.

21. In the event that any Confidential Discovery Material or Highly Confidential Discovery Material is used in any court proceeding in this Litigation or any appeal therefrom, said Confidential Discovery Material or Highly Confidential Discovery Material shall not lose its status as Confidential Discovery Material or Highly Confidential Discovery Material through such use unless such Discovery Material becomes part of the public record in this case. Prior to any Court proceeding in which Confidential Discovery Material or Highly Confidential Discovery Material is to be used, counsel shall confer on such procedures as are necessary to protect such Discovery Material.

22. If a Party in receipt of Confidential Discovery Material or Highly Confidential Discovery Material pursuant to this Stipulation and Order (a "Receiver") receives a subpoena or other compulsory process from a non-Party to this Stipulation and Order seeking production or other disclosure of such Confidential Discovery Material or Highly Confidential Discovery Material, the Receiver shall give written and telephone notice to counsel for the Producing Party within five (5) business days after receipt of the subpoena or other compulsory process identifying the Confidential Discovery Material or Highly Confidential Discovery Material sought and enclosing a copy of the subpoena or other compulsory process. Except as otherwise ordered by a court of competent jurisdiction, the Receiver shall not produce the Confidential Discovery Material or Highly Confidential Discovery Material called for until the earlier of (a) receipt of written notice from the Producing Party that the Producing Party does not object to production of the Confidential Discovery Material or Highly Confidential Discovery Material or (b) resolution of any objection asserted by the Producing Party; provided however that the burden of opposing the enforcement of the subpoena or document demand shall fall solely upon the Party who produced or designated the Confidential or Highly Confidential

1 Discovery Material, and unless the Party who produced or designated the Confidential or
2 Highly Confidential Discovery Material submits a timely objection seeking an order that
3 the subpoena or document demand not be complied with, and serves such objection upon
4 the Receiver prior to production pursuant to the subpoena or document demand, the
5 Receiver shall be permitted to produce documents responsive to the subpoena or document
6 demand on the response date. Subject to the immediately proceeding sentence, compliance
7 by the Receiver with any order, rule, or statute directing production pursuant to the
8 subpoena or document demand of any Confidential or Highly Confidential Discovery
9 Material shall not constitute a violation of this Stipulation and Order. Nothing herein shall
10 be construed as requiring the Receiver or anyone else covered by this Stipulation and Order
11 to challenge or appeal any order directing production of Confidential or Highly
12 Confidential Discovery Material covered by this Stipulation and Order, or to subject
13 himself or itself to any penalties for non-compliance with a legal process or order, or to
14 seek any relief from this Court. In the event that such Discovery Material containing
15 Confidential Discovery Material or Highly Confidential Discovery Material is produced to
16 the non-Party, the Receiver shall use reasonable efforts to secure treatment of those
17 materials by the non-Party in accordance with this Stipulation and Order.

18 23. This Stipulation and Order applies to all Discovery Material produced in this
19 Litigation or exchanged between the Parties in connection with this Litigation, whether
20 produced before or after the entry of this Stipulation and Order and whether produced by a
21 Party or non-Party.

22 24. No person receiving or having access to any Confidential Discovery
23 Material or Highly Confidential Discovery Material shall reveal such Confidential
24 Discovery Material or Highly Confidential Discovery Material, or the information
25 contained therein, to anyone not entitled to receive such Confidential Discovery Material or
26 Highly Confidential Discovery Material under the terms of this Stipulation and Order. If
27 Confidential Discovery Material or Highly Confidential Discovery Material is disclosed to
28 any person other than in the manner authorized by this Stipulation and Order, the Party

responsible for the disclosure shall immediately inform the Producing Party of all pertinent facts relating to the disclosure, including the name, address, and employer of each person to whom the disclosure was made. The Party responsible for the disclosure shall also make reasonable efforts to prevent disclosure of Confidential Discovery Material or Highly Confidential Discovery Material by each unauthorized person who receives the information.

25. This Stipulation and Order may be changed only by further agreement of all Parties in writing, subject to the approval of the Court, or by order of the Court, and is without prejudice to the rights of any Party to seek modification of this Stipulation and Order by application to the Court on notice to the other Parties hereto.

26. Nothing in this Stipulation and Order shall preclude any Party from seeking judicial relief, in good faith and upon notice to the other Parties, with regard to any provision hereof.

27. In the event of any discovery dispute, the parties shall comply with the undersigned's Standing Order re Civil Discovery Disputes.

28. For a period of six months after the final termination of this action, including any appeal, this court will retain jurisdiction to enforce the terms of this order.

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1 Nothing in this Stipulation and Order shall be construed to be a waiver of the Private
2 Securities Litigation Reform Act discovery stay.

3
4 Dated: June 8, 2011.

FARUQI & FARUQI LLP

5
6 By /s/ Vahn Alexander
7 Vahn Alexander
8 (310) 461-1426
9 Attorneys for Plaintiff
10 JOEL KRIEGER

11
12 Dated: June 8, 2011.

PILLSBURY WINTHROP SHAW PITTMAN LLP

13 By /s/ David M. Furbush
14 David M. Furbush
15 (650) 233-4623
16 Attorneys for Defendants
17 ATHEROS COMMUNICATIONS, INC.
18 WILLY C. SHIH, TERESA H. MENG,
19 CRAIG H. BARRATT, ANDREW S.
20 RAPPAPORT, DAN A. ARTUSI,
21 CHARLES E. HARRIS, MARSHALL
22 L. MOHR, CHRISTINE KING

23 Dated: June 8, 2011.

DLA PIPER LLP (US)

24 By /s/ David Priebe
25 David Priebe
26 (650) 833-2056
27 Attorneys for Defendants
28 QUALCOMM INCORPORATED and T
MERGER SUB, INC.

**PURSUANT TO STIPULATION, AS MODIFIED BY THE COURT,
SO ORDERED.**

^

25
26 Dated: June 15, 2011



Hon. Lucy H. Koh Howard R. Lloyd
United States District Court Judge
Magistrate

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Exhibit A

**AGREEMENT TO BE BOUND BY STIPULATION
AND ORDER GOVERNING THE PRODUCTION AND EXCHANGE
OF CONFIDENTIAL AND HIGHLY CONFIDENTIAL INFORMATION**

I have read the Stipulation And Order Governing The Production And Exchange Of Confidential And Highly Confidential Information (the “Stipulation and Order”) in the above-captioned action. I understand its terms and agree to be fully bound by them and hereby submit to the jurisdiction of the United States District Court for the Northern District of California for purposes of enforcement of the Stipulation. I further agree not to disclose or use any Confidential Discovery Material or Highly Confidential Discovery Material (as defined in the Stipulation and Order) for purposes other than those permitted under the Stipulation and Order.

Dated: _____

Signature

Name _____

Affiliation _____